

REMARKS

Applicant thanks the Examiner for the courtesies extended in the telephone conversation held on May 8, 2007 with Applicant's representative, Jaclyn Schade. During the conversation, the Examiner recommended that Applicant traverse the rejection and file a Request for Reconsideration as the guidelines for the application of the 35 U.S.C. §101 have changed and thus the claims would be allowable in view of 35 U.S.C. §101. The Examiner also noted that the dependency of claims 13 and 14 should be amended.

By this Amendment, claims 13 and 14 are amended for clarification purposes only, without the addition of new matter, to correctly identify their dependency. Claims 1-7 have been allowed. Claims 1-20 are pending. Reconsideration and allowance based on the following remarks are respectfully requested.

Entry of this Amendment is proper under 37 C.F.R. §1.116 as the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not present any new issues that would require further consideration and/or search as the amendments merely amplify issues discussed throughout the prosecution; (c) do not present any additional claims without canceling a corresponding number of claims; and (d) place the application in better form for appeal, should an appeal be necessary. Entry of this Amendment is thus respectfully requested.

As a preliminary matter, Applicant respectfully objects to the finality of the Office Action. Applicant notes that claim 20, which was previously added in Applicant's Amendment of January 11, 2007, has not been objected to or rejected by the Office Action. Accordingly, Applicant assumes that this claim is in condition for allowance. In the event that claim 20 is not allowed in the next communication from the Office, Applicant respectfully submits that the finality of the Office Action is premature and must be withdrawn and that a new, non-final Office Action must be issued setting a new period for reply. (See MPEP §706.07 and 37 C.F.R. §1.113).

Claims 8-10 and 12-19 were rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. The rejection is respectfully traversed.

With respect to claims 8 and 10, Applicant respectfully submits those claims fall within an enumerated statutory category of patentable subject matter. They are directed to a

practical application and the final result achieved by the claimed invention is “useful, tangible and concrete.”

The Office Action states that, in determining whether a claim is directed to a judicial exception of 35 U.S.C. §101, “only the final result of the claim, in this case the determination of displacements and interferometer model parameters, is used. In the instant case, the final result of the claim, the determination step,...is merely a computer signal and has not been put to some use explicitly disclosed within the claim, the determination is an abstract idea, and the claim is directed to non-statutory subject matter.” Applicant contends that claims 8 and 10 are directed to a final result that is useful, tangible and concrete and that the subject matter of those claims is directed to patentable subject matter. Specifically, claim 8 recites the patentable method of providing a substrate that is at least partially covered by a layer of radiation-sensitive material, providing a beam of radiation using a radiation system, using a patterning device to endow the projection beam with a pattern in its cross-section, and projecting the patterned beam of radiation onto a target portion of the layer of radiation-sensitive material. Thus, claim 8 clearly recites a patentable method that yields a “useful, tangible and concrete” result, such as a target portion of a layer of radiation-sensitive material of substrate exposed to a pattern. Similarly, claim 10 recites the patentable method subject matter of calibrating an interferometer for measuring displacements of a moveable object in a lithographic projection apparatus that includes determining interferometer model parameters.

Therefore, Applicant submits that the rejection under 35 U.S.C. §101 of claims 8-10 should be withdrawn. Claim 11 was objected to as being dependent upon a rejected base claim. Claim 11 is dependent upon claim 8, and thus should be allowable for at least the same reasons as claim 8 is allowable. Also, the rejection of claims 12-19 should also be withdrawn as they depend from claims 8 and 9, respectively, and are therefore patentable for at least the reasons cited in previous Amendments, and for the additional features recited therein.

Applicant has addressed all the objections and rejections and respectfully submits that the application is in condition for allowance. A notice to that effect is earnestly solicited. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the undersigned at the telephone number listed below.

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Respectfully submitted,


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